



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,365	07/10/2003	Koji Nakamichi	FUJY 20.508	6742
26304 7590 07/07/2008 KATTEN MUCHIN ROSENMAN LLP 575 MADISON AVENUE NEW YORK, NY 10022-2585				
EXAMINER PHAM, BRENDA H				
ART UNIT 2616		PAPER NUMBER		
MAIL DATE 07/07/2008		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/618,365

**Applicant(s)**

NAKAMICHI ET AL.

**Examiner**

BRENDA PHAM

**Art Unit**

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 April 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

**DETAILED ACTION**

1. Claims 1-15 are pending in the application.

***Response to Arguments***

2. Applicant's arguments with respect to claims 1-15 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Objections***

3. Claim 1 is objected to because of the following informalities: Claim 1, line 7 recites "other concentration control unit" should be amended to "a concentration control unit". Appropriate correction is required.

Claim 1, 9 recite limitation "a module indicating which unit, a sharing control unit corresponding to said ingress edge node or a concentration control unit, executes a process of determining the distribution ratio at which the input traffic to said ingress edge node is distributed to each of the plurality of paths." Should it be "a module indicating whether a sharing control unit corresponding to said ingress edge node or a concentration control unit, that executes a process of determining the distribution ratio at which the input traffic to said ingress edge node is distributed to each of the plurality of paths.

***Drawings***

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the interconnection between claimed features below must be shown:

A wide area load sharing control system comprising:

- a) a module determining a distribution ratio;
- b) a module indicating which unit;
- c) a sharing control unit;
- d) a concentration control unit;
- e) engineering section of the network;
- f) a state monitoring device.

A wide area load sharing control system comprising:

- a) a statistic information gathering module;
- b) a route determining module;
- c) a load sharing determining module;
- d) a distribution ratio at which a traffic should be distributed to respective paths on the determined route;
- e) active modules among said statistic information gathering module;
- f) load sharing determining module are switched over to between said ingress edge node and said network control device concentratedly controlling said respective nodes;

g) a module gathering and judging load states of said ingress edge nodes;

h) an indicating module switching over active modules among said statistic information gathering module, Said route determining module and said load sharing determining module to between said ingress edge node and said network control device must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 1, 7, 13 and 14 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claims 1-15, the application specification discloses a wide area load sharing control system and method comprising: a module determining a distribution ratio at which an input traffic to ingress edge nodes (not node) is distributed to respective paths set up between said ingress edge nodes (not ingress edge node) and egress edge nodes (not an egress edge node) that correspond to a traffic engineering section in a network; and

a module indicating which unit, a sharing control unit correspond to said ingress edge nodes (not ingress edge node) or other concentration control unit, executes a process of determining the distribution ratio at which the input traffic to said ingress edge nodes (not ingress edge node) is distributed to each of the plurality of paths.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph as being lack of antecedent basis.

Claims 1 and 2 recite the limitation "unit" in line 6 and 2, respectively. There is insufficient antecedent basis for this limitation in the claim.

Claim 6, line 4 and 6, respectively, recites "nodes". There is insufficient antecedent basis for this limitation in the claim.

Claim 7, page 4, line 1 recites "said network control device". There is insufficient antecedent basis for this limitation in the claim.

Claim 7, page 3, line 11 recites "wherein active modules". There is insufficient antecedent basis for this limitation in the claim.

Claim 9, line 4 recites "said network control device". There is insufficient antecedent basis for this limitation in the claim.

Claim 10, line 5, recites "said network control device". There is insufficient antecedent basis for this limitation in the claim.

Claim 11, line 3 recites "said network control device". There is insufficient antecedent basis for this limitation in the claim.

Claim 14, page 6, line 4 recites "said respective steps". There is insufficient antecedent basis for this limitation in the claim.

Art Unit: 2616

9. The prior arts made of record and not relied upon is considered pertinent to applicant's disclosure.

Miles et al (US 6,665,495 B1) disclose a system and method for providing non-blocking routing of optical data through a telecommunications router that allows full utilization of available capacity.

Beshai et al (US 6,876,629 B2) disclose a packet switch includes ingress modules, egress modules, and a switch core. Packets of variable sizes may be divided into segments of predetermined sizes to facilitate switching within the switch core.

Beshai et al (US 6,882,799 B1) disclose a multi-grained network includes edge modules that switch high-variance multi-rate data traffic.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brenda Pham whose telephone number is (571) 272-3135. The examiner can normally be reached on Monday-Friday from 9:00 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynn D. Feild, can be reached on (571) 272-2092.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-2600.

July 02, 2008

**/Brenda Pham/**

**Primary Examiner, Art Unit 2616**